

ENTERED

April 23, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISIONSOPHY TREADWAY, *et al*,

Plaintiffs,

VS.

SOPHEAK OTERO, *et al*,

Defendants.

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CIVIL ACTION NO. 2:18-CV-259

**ORDER OVERRULING OBJECTIONS AND ADOPTING
MEMORANDUM & RECOMMENDATION**

Plaintiffs Sophy Treadway and Charles Lybarger moved to voluntarily dismiss this action without prejudice so they could join a conditionally certified class of plaintiffs in the related case of *Ramos v. Exxizz Foods, Inc.*, 2:19-cv-00132 (S.D. Tex. Nov. 1, 2019). D.E. 135. Defendant Exxizz Foods, Inc., d/b/a Rockport Donuts (Exxizz)—the only defendant left in this action—indicated no opposition, as long as the Court imposed five conditions on dismissal. D.E. 136.¹

Magistrate Judge Jason Libby reviewed Plaintiffs' motion and filed a memorandum and recommendation (M&R), advising that the Court should either deny the motion, or grant it subject to five conditions that largely mirror those proposed by Exxizz. Specifically, Judge Libby proposed imposing the following conditions on dismissal:

1. That limitations as to Plaintiffs Treadway and Lybarger's claims in 2:19-cv-132 be limited to two (2) years as previously determined by this Court.

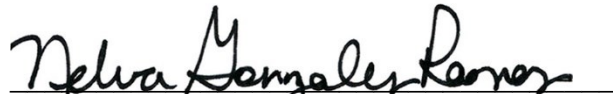
¹ The Court dismissed Plaintiffs' claims against Defendants Matthew Otero and Sopheak Otero. D.E. 21, 31.

2. That neither Sopheak or Matthew Otero be subjected to personal liability as to Plaintiffs Treadway and Lybarger's claims in 2:19-cv-132 as previously determined by this Court.
3. That discovery completed not be redone, except as to specific issues and individuals raised in 2:19-cv-132.
4. That all current defenses against Plaintiffs Treadway and Lybarger's claims be permitted in 2:19-cv-132.
5. That all costs of this action be carried to 2:19-cv-132.

D.E. 144, p. 7.

The Court now considers Plaintiffs' objections to the M&R. D.E. 145. Plaintiffs, however, do not identify any error in the M&R, but only agree to dismissal subject to the five conditions put forth by Judge Libby. Exxizz has informed the Court through its Case Manager that it does not object to dismissal subject to these conditions. Because the parties agree on this point and Plaintiffs' objections fail to address any error in the M&R, the Court **OVERRULES** the objections. D.E. 145. Plaintiffs' motion to dismiss is **GRANTED**. D.E. 135. This action is **DISMISSED WITHOUT PREJUDICE**, subject to the five conditions specifically enumerated above.

ORDERED this 23rd day of April, 2020.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE